

188

SPEECH

OF

HON. J. A. McCLERNAND, OF ILLINOIS,

IN FAVOR OF

THE ADMISSION OF CALIFORNIA,

AND ON

THE WILMOT PROVISO, THE EXECUTIVE PLAN OF NON-ACTION, AND THE
SETTLEMENT OF THE TERRITORIAL QUESTIONS.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, JUNE 4, 1850.

Nimium altercando veritas amittitur.

WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE,
1850.

Digitized by the Internet Archive
in 2018 with funding from

This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

ADMISSION OF CALIFORNIA.

In Committee of the Whole on the state of the Union, on the President's Message relating to California.

Mr. McCLERNAND said:

Mr. CHAIRMAN: I early foresaw the danger which has ensued from the agitation of slavery in connection with government for our territories; and did all in my power, in the first instance, to prevent the agitation; and have since striven—perseveringly striven—to terminate it, in a way that should be just and satisfactory to all parties and all sections of our beloved country. If I have been unsuccessful the fault is not mine, but attaches to others, whose course has had the effect not only to keep the question open, but to aggravate its evils and dangers. And upon such persons I call, at this time, to come forth and prove the sincerity of their professions by aiding to rescue the Union from the perils that threaten it. Let them, and all of us, elevate ourselves above all pride of opinion, above all party prejudices, above all sectional jealousies, and unite in one common and consentaneous effort for this urgent and transcendent object. This is my invocation—this patriotism and public duty call for; and I trust the call will not be in vain. Rome had her Curtius who leaped into the yawning chasm, a noble sacrifice, to save the State; and have not we, too, ardent patriots—many of them—who are ready to emulate the example of the heroic Roman—who are willing to lay down office, patronage, power, yea, even their lives, if need be, to save their country? I will believe it.

There are those, however, Mr. Chairman, whom I do not expect to reach by any appeal of mine—who, like Ephraim of old, are joined to their idols, and devoted to the iniquity of their ways. To them I offer no persuasion—I offer no argument—I offer only the pity or rebuke which their conduct deserves. And without wishing to be at all personal, the first of these, and one of the most conspicuous of the number, to which I shall

allude, is the member from Pennsylvania, [Mr. WILMOT.] And what of him and his course? He came here a few years ago a Representative from a Democratic district in Pennsylvania—professing himself to be a Democrat, and acting with the Democratic party; and as such, he was hailed by that party and received into their confidence and fellowship. Soon after he had taken his seat here, he was called on to vote against the protective system, and in favor of a revenue tariff. He responded to the call, voting in the affirmative; for which he was much applauded by those who approved of his vote. But what followed? The colleagues of the gentleman from Pennsylvania voted oppositely to him upon the same question; and his State was understood to be opposed to the policy of his vote. He became alarmed for the consequence—I will not say for his seat—and rushed upon a new expedient to save himself. That expedient was the anti-slavery proviso, in the noise and commotion of which, he has found a temporary escape.

Nor does the gentleman deserve any great credit for the originality of this expedient; for it is a part of the tradition of this proviso that it was the pestiferous offspring of a cabal of political malcontents who, after projecting or preparing it, placed it in the hands of one of their number, who became agent, as well as conspirator, and moved it in the House of Representatives. Other men might have done the same long before, but they would not rashly and needlessly endanger the peace of the country. Jefferson had said that there was one question above all others, which might threaten danger to the Union—that was slavery—which, when once stirred, would excite the same alarms and commotions as the sound of a fire-bell in the night time in a populous city; and prudent, and patriotic men, entertaining the same opinion, forbore, religiously forbore, to agitate it—to fire this magazine of discord and danger. It was reserved for the gentleman from

Pennsylvania to disregard all these admonitions and considerations, and to signalize his notoriety by an act emulated, if not equaled, by that of the incendiary of the Ephesian temple.

But, sir, what are the circumstances under which the gentleman from Pennsylvania brought forward his famous proviso? and what are the sanctions which it possesses either under the Constitution or the laws of humanity, to entitle it to the authority of a new political test, or its author to the rank of a reformer and benefactor? This is the question I propose now to consider, and I doubt not my exposition of it will be as curious to the uninitiated, as it should be unwelcome and overwhelming to the gentleman from Pennsylvania. What, I repeat, are the circumstances under which the proviso was introduced? The President of the United States, after our armies had beaten the Mexicans, and brought them to feel the necessity of doing us justice, asked of Congress, in August, 1846, an appropriation of two millions of dollars to enable him to hasten the negotiation of a treaty which should save the effusion of blood, and secure to the United States such indemnity in territory to be acquired from Mexico as might be just and right.* To the bill which was offered for this purpose, the gentleman from Pennsylvania moved the following amendment, which was first adopted in Committee of the Whole upon the state of the Union, and afterwards concurred in and passed by the House:

"Provided, That as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted."†

I voted against this amendment, and I scarcely need add, that it defeated the bill to which it was attached in the Senate. This was probably expected and desired by many of those who voted for the amendment in the House. It not only defeated the bill to which it was attached, but, by introducing discord and division into our national councils, it encouraged the common enemy to prolong the war. And that prolongation of the war multiplied and aggravated the evils and horrors of war. It caused the battle-field to be sated with blood and carnage—it doomed patriotic and aspiring men to perish by lingering and wasting disease in a foreign land—it robbed wives of their hus-

bands, and children of their fathers. It realized to us the full measure of—

* * * "Pelides' wrath, whence woes on woes
O'er the Achean's gathered host arose;
Her chiefs' brave souls untimely hurled from day,
And left their limbs to dogs and birds a prey."

Nor was its influence less pernicious and hostile to the cause of human freedom. The slaveholding States and slaveholding communities of the Union, whilst left free to obey the generous impulses of humanity, unbiased by apprehensions or resentments, were moving on with accelerated pace in the noble work of amelioration and emancipation. Slaves were well fed and well clad—opportunities for recreation and for acquiring property for themselves were allowed them. Schools and churches were encouraged and supported for their religious instruction—funds were furnished and colonization societies were authorized by the States, for the purpose of elevating and relieving their condition. Such, in short, was the progress of slave amelioration and slave emancipation, under the benign laws of God and humanity—such were the triumphs of human volition—of Christian grace in the noble cause of philanthropy. But what has followed the officious and vicarious intermeddling of the gentleman from Pennsylvania, in favor of the slave class? He has roused sectional jealousies and provoked sectional recriminations—he has opposed the motive of interest and the instinct of self-preservation to the charities of religion and the sentiment of liberty—he has converted peace and concord into strife and hatred—he has armed the slaveholder to defend with his life what had inspired his sympathies, and what he was almost willing, if not ready, to surrender. Alas! he has converted the cause of humanity and of religion into an angry question of political power and of sectional and self-preservation and honor. He has done all this, and is responsible before God and man for it. Stand forth now, thou man of the proviso, and answer to the charge brought against thee! Guilty or not guilty! Weigh in the scales thy noisy and frantic agitations in regard to slavery against the mountain weight of thy evil doing, and behold aghast the frightful balance!

But what, sir, would have been the legal effect of this proviso, if any, if it had been enacted by Congress? Certainly most pernicious. First, It would have crippled and intrenched upon the treaty-making power by limiting and constraining the rightful discretion of the President and Senate in regard to the terms and conditions of the treaty to be made—virtually declaring that no treaty, such as was contemplated, should be made, except according to the dictation

* Vide President's Message, August 8, 1846. 1st session 23th Congress.

† Vide Congressional Globe, 1st session, 23th Congress 1845-6; p. 1217, also House Journal, 1845-6, p. 1211.

of the law-making power. Second, It would have been a flagrant attack upon State sovereignty by interdicting *per se*, or through the agency of the treaty-making power, the toleration of slavery in any State to be formed out of the territory to be acquired. Next, It would have continued the war, until two-thirds of the Senators should have been brought to concur in a treaty containing an interdict against one-half of the States of the Union and one-half of the whole number of Senators; or, otherwise, have forced us to abandon the war, and with it our right of indemnity against Mexico. Next, Any treaty incorporating it, would have worked, in good faith and by its terms, a forfeiture of the territory acquired under it, upon the introduction of slavery into such territory. In short, it would have violated the Constitution, crippled the treaty-making power, aggressed upon the rights of the States, invited foreign and even inimical intervention in our domestic affairs, and, in fine, would have involved us in infinite difficulty and ridicule. Such, sir, is the character of the gentleman's proviso; and such would have been its operation, both constitutional and practical, as a law. I accord to him all the glory of its authorship.

But we are told that the proviso was the hallowed means of rescuing our extensive and valuable territories from the blighting spread of slavery. How so, sir? We know that slavery has not spread at all during the existence of this Government. On the contrary, it has contracted the sphere of its existence, and in many places totally or virtually disappeared. It has so disappeared in seven out of the twelve States in which it existed contemporaneously with the formation of this Government. It has disappeared in the six new States of the Northwest, and is lingering only in Maryland and Virginia, and probably in Kentucky and Missouri, to disappear there at no very distant day. It is an institution or relation of force, recognized by habit and prescription, which must sooner or later disappear wherever it exists, under the progressive operation of benignant causes. Like many other evils it must sooner or later correct itself. And may I not ask whether it was not in the spirit of this divine truth that the holy Apostle of Christ taught the familiar precepts:

"Servants, be obedient to them that are your masters according to the flesh."

* * * * *

"And ye masters, do the same things unto them, forbearing threatening, knowing that your master also is in heaven; neither is there respect of persons with him."

I think, sir, I may safely say that our experience has verified the wisdom of these admonitions. It certainly has proved, beyond reasonable

doubt, that the best friend of the bondman is he who inculcates order and cultivates fraternal feelings and intercourse between the different sections of the country; and that his worst enemy is he who preaches discord and foments sectional jealousies and recriminations. This is a notorious fact and should confound and condemn the political Abolitionists of the day—the *pseudo* friends of the slave. It proves that they are guilty of the very charges which they have so recklessly heaped upon others.

But, sir, to approach the question still more nearly, what has the proviso, in fact, done to secure our present territories against slavery? Has it done anything? I maintain not. On the contrary, it has done infinite harm, and no good; and I appeal to authentic facts for the truth of this assertion. First, after having been moved by the gentleman from Pennsylvania, under the circumstances, and with the effects already stated, it was moved next by the gentleman from New York, [Mr. PRESTON KING.] This was in January, 1847, when it defeated all attempts during that session of Congress to extend civil government to the territories then conquered from Mexico and held by our arms. Next, it appeared to defeat all similar attempts for the same object in 1848; and, unfortunately, it still survives, to thwart our efforts in the seventh month of the present session, for the same object. As a perturbed and damned spirit, it still haunts the public mind, and paralyzes our public councils. It refused to the people of California permission to erect that territory into a State, under the plea that slavery would be tolerated by it; yet California now applies to Congress for admission into the Union, prohibiting slavery. It has refused, and continues to refuse, to the people of the territories, civil government without the anti-slavery interdict, while it insists that the Mexican law is still in force in those territories, which contains that interdict. It declaims against "man's inhumanity to man," while it unblushingly refuses government to the territories, and leaves our fellow-citizens inhabiting them a prey to savage warfare and cruelty. Every courier from New Mexico and California brings us intelligence of incursions made, towns sacked, herds driven off, men murdered, and women and children carried into captivity; yet the Wilmot proviso, as an incarnate demon, stands unmoved, and even gloats, with demoniac joy, at the moving tale.

I proclaim it, sir, that *this* proviso is a falsehood and a fraud, and that it deserves to be scouted and scoffed by every orderly and discreet citizen. Yet it is the author of this pro-

viso who sets himself up as an expounder of the Constitution, the enemy of slavery, the champion of humanity, a political censor, and a moral reformer. Yes, sir, it is he who insolently assumes to impeach the fidelity of northern members to their constituents; and to denounce a common settlement of all the questions concerning our territories as "a crowning act of treachery to northern interests and northern rights," which "would strike a chill upon the hearts of the freemen of this land." Yes, sir, it is he who, while his reckless agitations are sundering the very bands that bind these States together in concord and unity, cries out treason against others; forgetting altogether his own demerits, and unmindful that the bolt which he has forged for others may, aye, will recoil upon his own devoted head. I throw back his imputations—I throw them back not only for myself, but I think I may venture to do so for others—and especially for my distinguished friend no longer here, whose service in this House was signalized for a number of years by talent, decorum, and eminent patriotism. I refer to Mr. Brodhead, of Pennsylvania, who was so rudely, and as I think, ungenerously assailed by the gentleman from Pennsylvania, [Mr. WILMOT,] the other day.

But, sir, there is another actor, of no mean pretensions, in this angry drama, who deserves to be noticed—whom it would be ungracious if I did not notice,—I refer to the distinguished gentleman from Massachusetts, [Mr. WINTHROP.] I offer my respects to that gentleman, with the more promptness now, because, during the last session of Congress, the then Speaker of the House refused me all opportunity to do so; and with still more promptness since, in the change of circumstances, favors, however small, may be more acceptable to him. What, I ask, are the graces of that gentleman's part in this anti-slavery drama, and how did he bear them? It may not be unprofitable to inquire. In February, 1845, while the bill to establish a territorial government in Oregon was under consideration, he offered the following amendment, which was adopted in Committee of the Whole on the state of the Union, and was afterwards concurred in and passed by the House:

"*Provided, however,* That there shall neither be slavery nor involuntary servitude in said territory, otherwise than in the punishment of crime whereof the party shall have been duly convicted."*

This amendment was moved under extraordinary circumstances, which stamp it with a most significant character. It was moved when the British Hudson's Bay Company had extended their settlements over the northern half of Oregon,

quite to the Columbia river, and had armed their trading posts and extended their forts throughout the whole territory, apparently for the purpose of restraining and overawing the American settlements, and in violation of the spirit of the treaty of joint occupancy, renewed with England in 1827. It was moved when American settlers and traders were without law, and were left at great disadvantage with the members and servants of the Hudson's Bay Company, whose organization and discipline were most efficient and admirable—when our brethren in Oregon, who had planted our flag upon the distant shores of the Pacific, had often asked for law, but in vain, and were exposed to the sanguinary cruelties of savage hordes for the want of governmental protection. Yes, it was moved under these urgent circumstances and for the very purpose of defeating the "Oregon bill." The gentleman dare not deny it—he admits it.*

Next, in June, 1846, the Oregon treaty was concluded, and the forty-ninth parallel of north latitude adopted as the boundary between the possessions of the United States and Great Britain in the northwest; and with the treaty, the President transmitted a message, urging Congress to organize a government in Oregon without delay. But the storm was now up and it could not be quelled, the fire was now kindled and it could not be quenched. A bill was brought forward to establish a government in Oregon, in conformity with the recommendation of the President; but the proviso—the *Winthrop proviso*, was fastened upon it in the House, and strangled it in the Senate. The same thing recurred in 1847, and would have recurred again in 1848 with the vote of the gentleman from Massachusetts, but for the almost superhuman efforts of one man, the distinguished Senator from Missouri, [Mr. BENTON,] who, amidst one of the most exciting and memorable parliamentary scenes on record, marshalled its way through the Senate, almost in the very last moment of the session expiring on the 14th of August, 1848.

This, sir, is the history of the "Winthrop proviso," of which the gentleman from Massachusetts boasts that he is the author. And thus we see that it cruelly withheld from the people of Oregon the protection of our laws and arms, for more than three years; and in truth, until the exigency of an Indian war and a courier crossing the Rocky Mountains and the intervening plains, more than two thousand miles, amidst snow and ice, brought us the startling and urgent intelligence of that event. And even then the pathetic and bleeding appeals of our fellow-citizens in Oregon, were only an-

* *Vide* Congressional Globe, 2d session 28th Congress, p. 232.)

* *Vide* his speech in the House of Representatives, May 8, 1850.

swered, after a contest, in which the gentleman from Massachusetts bore no very heroic part, and which shook the Capitol to its very foundations.

And what good did the proviso do after it was passed? None, sir. The gentleman has argued as though it kept slavery out of Oregon; but he is mistaken. The law of God kept it out: so said Colonel Benton and others at the very time they voted for the Oregon proviso, and so declare common sense and common experience. And what is more, and should have been known to the gentleman from Massachusetts, the people of Oregon themselves, acting in conformity with these dictates, had prohibited it by voluntary law—first in 1841, next in 1843, and again in 1845, by their territorial constitution, afterward ratified by Congress, in August, 1848. So, sir, the gentleman from Massachusetts stands forth unexcused for his proviso. Like its baleful offspring, the “Wilmot proviso,” it was uncalled for either by reason or necessity, but was condemned by both. History will record its mischief, while the afflictions of our people in Oregon and the dismemberment of that territory, together with its abortive puerility to prevent slavery, will forever stamp its real character. Let this, also, as the gentleman from Massachusetts says, stand in “*perpetuum memoriam rei.*”

Whether the gentleman from Massachusetts is the real, and the gentleman from Pennsylvania [Mr. WILMOT] is only the putative father of this modern proviso, is a question which I will not any further deal with. I have only alluded to it, so far, incidentally and necessarily. I interfere not between the gentlemen on so delicate and sensitive a point; but will leave it to them and to their respective friends to adjust, as they think proper or best can. If I should recommend anything, it would be that they should cease to quarrel and recriminate each other—their “hands were never made to tear each other’s eyes.” They should compromise the dispute in a spirit of amity and truth, allowing to each a claim, and to one or the other certainly the right to the paternity of the illegitimate offspring. This compromise would leave both parties a full moiety of notoriety; and if they are morbidly ambitious, this would be a welcome recompense for the more difficult prize of true glory.

But, sir, whatever may be the dispute about the authorship of the present proviso humbug, it is certainly due to the gentleman from Pennsylvania to say that he has evinced the most consistency and fatherly affection towards it. He has adhered to it through good and evil report—has never abandoned it; it has been the one idea, the one ob-

ject and the one love with him. Not so with the gentleman from Massachusetts: he has acknowledged it as a claim to fame—has glorified it for the gratification of his constituents, and for his own heart’s ease, but has denied the “unseemly brat” when pride or policy, upon the larger theatre of the nation, required it. What are the proofs of this assertion? They come out of the gentleman’s own mouth. In congratulating himself upon the anti-slavery clause in the Oregon act, he says:

“If it be fairly traceable to this movement of mine that it is no longer an open question whether slavery shall find a foothold in the Territory of Oregon, I shall feel that it has not been entirely in vain that I have been for ten years associated with the public councils of my country.”

Again he says:

“Undoubtedly, Mr. Chairman, my own honest impulse and earnest disposition would be to organize territorial governments over both of them, (New Mexico and Utah,) and to ingraft upon those governments the principles of the ordinance of 1787. If I were consulting only my own feelings, or what I believe to be the wishes and views of the people of New England, this would be my unhesitating course. Though believing, as I do, that the laws of Mexico, abolishing slavery, are still in force there, I would yet make assurance doubly sure, and take a bond of fate against the introduction of slavery into any territory where it does not already exist.”

Yet, sir, notwithstanding all these wordy protestations of “honest” impulses and “earnest” dispositions, the gentleman declares in another place in the same speech, that he is in favor of the “President’s plan,” which he denominates the “*non-action policy*;” and felicitates himself with the idea “that northern men can afford to be a little forbearing upon this subject” of the anti-slavery proviso. Yes, sir, he professes himself willing to waive the proviso, the effect of which he would assure by a bond from fate itself; but no, he cannot or will not waive his objection to a bill for the common settlement of all of the territorial questions. Again, he says that he is opposed “to all *omnibus bills* and amalgamation projects” whatever; yet, what is the fact? We often, if not always, find his name recorded in favor of such bills and such projects when they happen to be compounded to his taste. He can vote millions of dollars for the improvement of Great Wood Hole, Little Sodus bay, Hog-Island channel, and for a hundred other objects of the most incongruous natures; but he refuses—peremptorily refuses—to vote for a bill to allay strife and restore concord to our public councils and quiet to the country. Strange inconsistency. How will he explain it?

Again: if it be true, as contended by the gentleman, that the Mexican law surviving the conquest of our territories, inhibits slavery in those territories, why does he not abide by his opinion? Why would he superfluously reenact that which is already in force, and that, too, under circumstances

characterizing the measure as an insult and an outrage upon a large portion of the Union? I ask why would he do this? For myself, entertaining the same opinion advanced by the gentleman, I am willing and ready, in view of all the circumstances of the case, to waive the proviso in regard to our territories. Having an opinion, sir, I am willing to respect it—to stand upon it—and I doubt not that a large majority of the people of the United States sympathize with me in this course. I am quite certain that a large majority of the people of Illinois will do so, notwithstanding the counter authority of other high places. If I wanted any proof of this fact, I need only refer to my colleagues, five out of the seven of whom vote against the proviso, and as I have sufficient reason to believe in conformity with the wishes of their patriotic constituencies.

I agree with the gentleman from Massachusetts that we should admit California into the Union as a State, and that we owe to New Mexico and Utah the protection of our laws. I agree to all this; and precisely because I do agree to it I am ready and anxious to provide for the whole category at once. The gentleman, however, is opposed to this; he would admit California, but would withhold civil government from the territories; and why would he do so? I repeat, why would he do so? *This is the question.* Is it because the approval or the disapproval of the proviso, under a constitutional necessity, would expose the fraud of the late presidential election, impale President Taylor, and explode and disgrace the Whig party? Is it because the gentleman has found the proviso to be growing unpopular, and would, therefore, abandon it? Or, rather, is it because policy would speak with a forked tongue, professing to be both for and against it; and prove itself to be so, by declining to vote either one way or the other—in short, by "*non-action?*" Whether this is the fact, and whether this would not be an unworthy double-dealing—an unmanly skulking from just responsibility,—whether, in short, it would not be a criminal compromise of conscience with interest, I leave for those immediately interested, and the public at large to decide.

Yes, sir, *non-action* upon the territorial questions is not only the expedient embraced by the gentleman from Massachusetts and other leading proviso Whigs, including the able gentleman from New York, [Mr. DUER,] but it also comes recommended to us as a substantive policy by the President himself. He so recommends it in his message of the 21st January last, now under consideration. And what, sir, of this policy thus

formidably auspicated? Is it either just, or manly, or wise? My eloquent and patriotic friend from Tennessee [Mr. EWING] has victoriously answered this question. He led the vanguard of opposition to this driveling policy, and has left me but little to do or to say. It would probably be enough to add, that this policy is condemned by the "great embodiment," the "great pacifier," of the Whig party, Mr. CLAY; and by the *anti-proviso* branch of that party; and that no Democrat has been yet heard to say that he was in favor of it. I repeat, sir, that this probably would be enough to impeach its merits, and to require of its advocates other and better arguments in favor of it than have been yet advanced.

But I will not stop here—I will go further and appeal to the arbitrament of truth and reason itself to condemn it. And looking abroad over the whole question, what do we find to be the state of the case? After a victorious war with Mexico, we concluded a treaty of peace with that Republic, by which we acquired a vast territory, extending from the Pacific more than two thousand miles to the border of Texas, including New Mexico and Upper California, with an area according to one calculation, of six hundred and fifty-one thousand square miles. With this territory came also a specific obligation: an obligation which we cannot avoid if we would, and which we should not avoid if we could, under the circumstances. We bound ourselves by the same treaty, as one of the conditions of this acquisition, to *restrain* and *punish* the predatory and murderous incursions of the savages located within or upon the borders of New Mexico, into the Mexican settlements. We did more, sir; we bound ourselves, "in order to give the fullest possible efficacy" to this stipulation, to "pass without unnecessary delay, and always vigilantly enforce, such laws as the nature of the subject" should "require." Have we fulfilled these obligations? and is there not an imperious urgency that we should do so? Who can doubt upon the subject? We understand that the Jicarillas, Apaches, Utahs, Southern Utahs, Navijoes, Comanches, Cayugas, Cheyennes and Arapahoes—some ten Indian tribes, numbering some forty thousand souls, located within or upon the borders of New Mexico, whose habits and characters are all more or less treacherous, predatory, and sanguinary, still continue their hostile and afflictive incursions into the Mexican settlements. This is what we hear—this is what we know. Now, shall we not act—promptly act—to arrest these evils, to redeem our plighted faith, to acquit our gaged honor?

Again, sir, what do we hear from the people

inhabiting our newly-acquired territories? The memorial of the people of Deseret or Utah, assembled in convention, which is on our tables, informs us that anarchy has prevailed there to an alarming extent since the expiration of the Mexican authority in that territory. They say—

“That the revolver and bowie-knife have been the highest law of the land; the strong have prevailed against the weak; while person, property, character, and religion, have been unaided, and virtue unprotected.”

We learn, too, from the memorial of the people of New Mexico, attached to the journal of their proceedings in convention, which is also in our possession, what should almost freeze our blood and cause the hair on our heads to stand erect.

They say:

“For the last three years we have suffered under the paralyzing effects of a government undefined and doubtful in its character, inefficient to protect the rights of the people, or to discharge the high and absolute duty of every Government, the enforcement and regular administration of its own laws, in consequence of which industry and enterprise are paralyzed, and discontent and confusion prevail throughout the land. The want of proper protection against the various barbarous tribes of Indians that surround us on every side, has prevented the extension of settlements upon our valuable public domain, and rendered utterly futile every attempt to explore or develop the great resources of the territory. Surrounded by the Eutaws, Comanches, and Apaches, on the north, east, and south, by the Navijoes on the west, with Jicarillas within our limits, and without any adequate protection against their hostile inroads,—our flocks and herds are driven off by thousands, our fellow-citizens—men, women, and children—are murdered or carried into captivity. Many of our citizens of all ages and sexes are at this moment suffering all the horrors of barbarian bondage, and it is utterly out of our power to obtain their release from a condition to which death would be preferable. The wealth of our territory is being diminished. We have neither the means nor any adopted plan by government for the education of the rising generation. In fine, with a government temporary, doubtful, uncertain, and inefficient in character, and in operation, surrounded and despoiled by barbarous foes, ruin appears inevitably before us, unless speedy and effectual protection be extended to us by the Congress of the United States.”

But, sir, this is not all. The proofs multiply at every step. It was only lately that we learned from our Indian agent in New Mexico that he was waited on at Santa Fé by a deputation from Zunia, who complained bitterly of the cruelties of the Navijoes. They stated, “that wheresoever they went they were under the necessity of going ‘guarded and armed, and that they had to watch their horses, mules, and sheep, during every hour of the twenty-four.’” They added, “that there were five hundred and fifty-five able-bodied men in their village, and only thirty-two fire-arms, and less than twenty pounds of ammunition;” and “asked for arms, and ammunition, and permission to make a war of extermination against the Navijoes.”*

Nor is it long since our ears and hearts were afflicted with the moans of a party of our fellow-citizens who were murdered, and with the lamentations of a widowed wife who was taken captive by the Apaches, near the confines of New Mexico. We have since learned that Mrs. White, the lady referred to, perished among the Indians.

Such, sir, is the condition—such the exposure, the sufferings, the cruel afflictions of the people inhabiting the territories. Now, shall it be said that we shall fold our arms and do nothing—that we shall not act—that we should leave it to time and chance to remedy these ills, to staunch these bleeding wounds of our fellow-citizens? Who will hold up his head and say so? Who dare say so? None, sir, I fain would believe. And much less should they say so who fulminated their thunders against the late President as a usurper and tyrant, for enforcing *military* law in the conquered territories during the war. All such are now called on, in consistency and good faith to unite in giving *civil* law to our fellow-citizens in these territories in time of peace. I call upon them, one and all, to do so; and particularly upon my friend from Georgia, [Mr. STEPHENS,] whose eloquent denunciations are almost still lingering in my ears.

There are other considerations, sir, of grave and weighty character, and not a few in number, which call on us for action. First, we promised the people of the conquered territories—I mean those who were Mexicans—that we would extend to them the benefits and protection of our laws and Government without delay—that we would improve, not injure their condition. This was one of the inducements formally held forth by the Government to the Mexicans to submit to our arms and authority; and to a people who had been neglected and injured by military rulers, as the people of New Mexico and California had been, it may not have been without influence. In conformity with this policy, General Kearny, after taking Santa Fé, the capital of New Mexico, issued a proclamation, of which the following is an extract:

“It is the wish and intention of the United States to provide for New Mexico a free government, with the least possible delay, similar to those in the other territories of the United States; and the people of New Mexico will then be called on to exercise the rights of freemen in electing their own representatives to the territorial legislature.”†

And the same proclamation, in terms, was made by General Kearny in California, and substantially by Commodore Stockton at an earlier date.†

Besides this, sir, we owe it to our countrymen who have emigrated to those distant territories, to afford them government. It would be a shame,

* *Vide* Communication from J. S. Calhoun, Indian Agent,

to Commissioner of Indian Affairs, October 29, 1849.

* *Vide* Proclamation, August 22, 1846.

† *Vide* Proclamation, August 17, 1846.

and ungrateful, if we did not. Who are this class? They are brave men and patriotic—they have sturdy arms and adventurous spirits; their like never before existed in any other country. They are the men whose ancestors and similitude kindled the sacred fire of liberty and civilization upon Plymouth Rock and at Jamestown, and its lambent flame has spread from ocean to ocean. Forcing and fighting their way through the wilderness, and among savage hordes, they have founded States, and marked the limits of an empire of surpassing grandeur and glory. Scaling the glaciers of the Rocky Mountains, they have planted our flag upon the distant shores of the Columbia. They have conquered Texas, and added it to the Union; they have found their way into New Mexico and California, in the fulfillment of a singular and romantic destiny; and shall we not extend to them the ægis of our laws and Constitution? Shall we not follow them with our protection? Shall we, Oh, shall we unfeelingly and criminally abandon them—this vanguard of liberty—these hardy pioneers—these gods of our terminus? And if not they, shall we abandon the gallant men who assisted in conquering those territories, the Mormon battalion, whom we enlisted on their way to California, and the New York regiment, whom we likewise discharged, the first with, and the latter without arms, in California? I leave it to the moral sense of Christians and law-givers to decide.

It was the proud boast of the Roman citizen that the name of his country was a potent claim to respect and justice in every land; it was this magic invocation that caused the persecutors of Paul and Silas to tremble, and hasten to deliver them from the Macedonian prison; it was this invocation—I am a Roman citizen—that was addressed to Verres, the tyrant of Syracuse, in the last resort, by the agonizing victim of his cruelty. And shall it be said, that the American name is a less potent claim to justice and right, and that, too, from our own Government? This, indeed, would be too bad. No, sir, let the American citizen feel, wherever he may be, that the flag of his country will afford him protection; that its soaring eagle will shelter him by its wings, and defend him with both beak and talons, and his heart will swell with manly pride, and his hand and blood will ever be a ready offering in her cause. Protection on the part of Government is the price of allegiance on the part of the citizen, and default on the one side is but little better than treason on the other.

Lastly, sir, though not least, we are solemnly bound by treaty to provide without delay for the people of those Territories. What is the provis-

ion of the treaty with Mexico in this respect? It is not vague, it is not inferential—it is express and positive. It is in the following emphatic words:

“Mexicans who, in the Territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights as citizens of the United States, according to the principles of the Constitution, *and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.*”*

Now, sir, have we fulfilled this stipulation—have we incorporated the citizens of the United States in those Territories into the Union upon the principles of the Federal Constitution? or have we “*maintained and protected*” them in the *mean time* “*in the free enjoyment of their liberty and property,*” and *secured “them in the free exercise of their religion without restraint.”* Who will say so? None will be so hardy. And if not, and we continue to refuse them government and protection, what must be the consequence? Unavoidably we must suffer much not only in our own opinions, but in the good opinion of the world; for in this enlightened age it is not permitted by the great moral tribunal to which all nations are, in some sort, amenable, for any one of them to break its engagements and forfeit its plighted faith with impunity. The Pla-teans promised to restore the Theban prisoners, but restored them after putting them to death; and all posterity have denounced the treachery and cruelty of their conduct.

Now, shall we only abate the enormity of this example, not by slaughtering the people of New Mexico ourselves, but by leaving them to be slaughtered by the savage hordes who surround them? I trust not. Treaties are sacred things—they are the only means, short of appealing to the sword, to adjust the differences between States and communities who have no superiors on earth. They are the covenants of nations for the good of nations, and therefore concern the welfare of the whole human race. Let no unhallowed hand be laid upon them—let them not be treated lightly, much less by a Republic claiming to be based upon good faith and justice, and which should ever pride itself for the observance of these noble qualities. As a generous conqueror, it becomes us to study and relieve the condition of those whom the fortune of war has placed in our power. Policy dictates this, duty demands it; for, in truth, it is only by such treatment that the tremendous evil inflicted by the most just war can be at all excused in the eye of conscience and humanity. Nor, sir, would I stultify my Government by saying

* *Vide 9th art. of treaty with Mexico, February 2, 1848.*

that it was incapable of performing its constitutional functions. I would not endorse this slander, this reproach which is implied, if not professed, by the policy of *non-action*.

Now, sir, having disposed of the “*proviso*,” and the “*non-action policy*”—having shown that the one is useless and pestiferous, and that the other is culpable and cowardly, I come, next, to inquire what should be done? For one, sir, I have no hesitation upon this subject: I say, admit California and provide governments for the Territories at once and conjointly by the same act; and if not by one act, by several acts; but still in the shortest time possible. This is my opinion and my advice, and this will be my course. In conformity with this view (and it is due to you, sir, to say, with the aid of your experienced and valuable counsel,) I have prepared a bill, at some expense of labor and time, providing—*first*, for the admission of California; *second*, for the territorial government of Utah; *third*, for the territorial government of New Mexico; and *fourth*, for the arrangement of the northern boundary of Texas. Such are the provisions and objects of the bill, and no more. This bill is printed, and is now upon our tables. I am prepared to vote for it in its present form, or with the Texas boundary stricken out. Or I will vote for it with the enactment of the laws in force in those Territories, so far as they are not incompatible with the Constitution and laws of the United States and the rights of person and property secured and protected thereby, or I will vote for it with this clause stricken out—the object being, in good faith, not to disturb the legal *status* in the Territories, but to leave it precisely as it is. Or, sir, I will vote with great pleasure for a bill framed upon the basis of a scheme which you had the honor to originate at an early period of the session, and which you were so kind as to show me some time before either my project or the one in the Senate was brought forward, and which I understand to accord with the basis of both. (Mr. McC. here referred to Mr. BOYD, of Kentucky, who was occupying the Speaker’s chair.) Or I am willing to vote for any other judicious and practicable plan of settlement. This, it appears to me, is all I need say for myself.

It is objected, however, and most eloquently and ably objected, by my learned and accomplished friend from Virginia, [Mr. SEDDON,] that California comes to us as a rebel, meriting punishment, rather than as a State entitled to admission into the Union. I agree with him, that the dominion of our territories rests in the United States, and that it was not *legally* competent for the inhabitants of California to erect that territory into

a State without the previous consent of Congress. But the gentleman will recollect that the people of California do not, as I understand them, profess to base their case upon a conformity with law, or with precedent, although there are numerous precedents, particularly the case of Tennessee, which cover it—but upon necessity—the paramount law of self-preservation, which *must* always afford an *authentic* justification. And upon this ground Major General Smith, commandant of the Pacific division of the United States army, and Brigadier General Riley, Governor of California, not only justify the measure, but also their coöperation, directly or indirectly, to bring it about. The latter says, in his dispatch of the 31st of October, 1849, to the Adjutant General, that—

“Whatever may be the legal objections to putting into operation a State government, *previous* to its being acknowledged or approved by Congress, these objections must yield to the *obvious necessity* of the case; for the powers of the existing government are too limited, and its organization too imperfect, to provide for the wants of a country so peculiarly situated, and of a population augmenting with such unprecedented rapidity.”

Nor should the gentleman from Virginia forget that the people of California waited for Congress to give them a territorial government, from the date of the conquest of that territory until such a government became unsuitable to their condition, when, and when only, they framed their State constitution, and put it into operation in the latter part of the past year.

Others object that the bounds of California are too large. I agree that they are larger than I would have them; but this can, and probably will, be remedied, by the ultimate division of the State, with her consent. Massachusetts was so divided, and the State of Maine was erected out of a portion of her territory. New York was divided, and the State of Vermont was erected out of a portion of her territory. But, even if California should never be divided, she will only afford a counterpoise to Texas, which is a still larger State. It is also true that California as a free State, compasses the Pacific coast for some seven hundred miles, and thus excludes slavery for the same distance from access to the Pacific. But it is likewise true that the sea-board of the slaveholding States extends from the Delaware, several thousand miles, quite to the Rio Grande, excluding the non-slaveholding States altogether from the Gulf of Mexico and from the main Mississippi, which are known to be the great estuary and artery of the commerce of the Mississippi valley, and indeed of North America. Surely, then, on this score, the non-slaveholding States generally, and particularly those of the Northwest, whose geographical position is entirely interior, have as much right to

complain as the slaveholding States have of their exclusion from the Pacific. Indeed, the greater cause for complaint on this subject is with the non-slaveholding States.*

Other objections are urged to the admission of California, but I have neither time, nor is it necessary, to answer them. In this task I have been happily and triumphantly anticipated by the able gentleman from Missouri, [Mr. HALL,] who delivered early during this debate one of the most effective speeches of the occasion. With his permission I will adopt his argument on this branch of the subject, believing it to be entirely conclusive.

With respect to the territories, such provisions are introduced as are supposed to be adapted to the objects in view. Having explained those provisions at a former period, I will not undertake to dwell on them now: they sufficiently explain themselves. I will only add, or rather repeat, that they embody, or are designed to embody, the general principles and spirit of the civil organizations lately established, or proposed by the people inhabiting those territories. In the case of Utah, the constitution of the proposed State of Deseret is converted into a constitution or organic law for the proposed territory, of course omitting and adding such provisions as the attainment of the object in view requires. This territory styled Utah, will include the people called Mormons. In regard to New Mexico, but little more is done than to legalize the plan of government lately framed by a convention of delegates chosen by the people of the territory of that name. True, some modifications and additions are introduced into the original, but such only as are entirely in harmony with it, and are necessary to impart to it symmetry and completeness. In this respect, the bill I have proposed differs from the one since reported by the Committee of Thirteen in the Senate, which is understood to be drafted without any particular reference to the action of the people in the territories.

In answer to the objections taken by the learned gentleman from Vermont, [Mr. MEACHAM,] and by my excellent friend from Ohio, [Mr. HOAGLAND,] to the provision respecting Texas, I may urge the imperious reason—I may say the absolute necessity for some such provision. What are the facts? We are informed that the Legislature of Texas has placed in the hands of the Governor of that State the means of a military expedition to assert

her jurisdiction over a part of the territory claimed to be within the boundaries of New Mexico. We know, also, that there are those now in that Territory, and that there are others on the way there who would resist—forcibly resist—any such attempt on the part of Texas; in consequence of which the peace of the whole country is suspended by a hair liable to be snapped by the slightest accident or indiscretion. In addition to this, we are advised that another pregnant cause of irritation and exasperation, exists in the laws of Texas still remaining unrepealed, which undertake to disfranchise and confiscate the estates of all persons within her professed boundaries who refused to take up arms in support of the Texan revolution. One of these laws is made perpetual and irrevocable by being incorporated in her very constitution. The following is an extract of the law

“All persons who shall leave the country for the purpose of evading a participation in the present struggle, or shall refuse to participate in it, or shall give aid or assistance to the present enemy, shall forfeit *all* rights of citizenship, and *such lands as they may hold in the Republic.*”*

Of course, now, the enforcement of these penalties would be viewed by the native population of New Mexico with the greatest consternation and repugnance. They would naturally, and I may add necessarily, in self-defence, oppose to their enforcement the most decided resistance—even to arms: for the effect of such a measure would be to leave unoffending and unsuspecting thousands suddenly disfranchised of their civil rights, stigmatized, too, with treason, and stripped of their patrimonies which had descended from father to son for more than two hundred years. Nor would the effect of such a measure be less violative of our treaty with Mexico, particularly in that part of the ninth article already quoted; and in the eighth article, which guarantees the right of Mexicans “established” in the territory acquired from Mexico to “*continue*” therein, or to “*remove* at any time into the Mexican Republic, *retaining* the property which they *now* possess in said territory.” And, I add, of course retaining it, if they remain and elect to become citizens of the United States; which is the case with all those Mexicans who have continued to reside in the territory acquired from Mexico. All such are now American citizens; and as such are covered by the panoply of our Constitution and laws; which guaranty to them, inviolably, all their rights of person and property. They are doubly protected—both by the Constitution itself and the faith of a treaty.

Now, sir, to reconcile these complex differences, and to avert, by timely interposition, the serious consequences threatened by them, I have proposed

* The shortest distance by sea between the 32° and the 49° of north latitude on the Pacific coast is 1200 miles. The shortest distance by sea between the Delaware and the Rio Grande is 1800 miles.

*Vide Dallam's Dig. of the laws of Texas, p. 137.

in arrangement with Texas—the same that has been objected to—and I submit, whether it, or some more effectual accommodation, should not, and ought not, in common prudence be embraced by Congress? For one, I can have no doubt on the subject. I have proposed that we should pay to Texas \$10,000,000, and that she, on her part, should transfer to the United States all of her pretensions, of whatever kind, to the territory north of a line extended from the intersection of the 34th parallel of north latitude with the Rio Grande, asterly to the southwest corner of the Indian territory; which, with the consent of Texas, would be the boundary between her on the South and New Mexico on the North. This arrangement, making certain what is now uncertain, would satisfy an angry question of territorial limits—it would confirm to the United States all of the territory north of the proposed boundary, amounting to 3,091 square miles, or to 59,578,240 acres, which would be immediately added to the unenumbered domain of the United States as a source of remunerating and even more than remunerating venue. Not only this, sir, but it would fore-all, by prevention, a cruel forfeiture of the personal rights and private property of a class of our fellow-citizens, and thereby demonstrate to the world our faithful observance of our treaty stipulations with Mexico. And are not these results desirable? Who would willingly or indifferently regard them? Who, I ask, will say that \$10,000,000, or even \$100,000,000, is too much to pay, in honesty and fairness, for their attainment? Or that \$10,000,000 is too large a sum to repay the pretensions which were pledged by Texas for the reimbursement of her revolutionary debt, and which are lost both to her and to her creditors, in consequence of her annexation to the United States—in other words, in consequence of our appropriation of those revenues? Who, I repeat, will venture upon such untenable ground?

But, sir, in another view: what must follow if these unhappy differences are not settled? This is a momentous question, rising far above all others we have yet considered, and concerns not only the condition of our territories, but the welfare of tens of millions of free people; yea, the cause of human liberty throughout the world. I hesitate to approach it; it is too vast for finite comprehension; it is too fearful for voluntary contemplation. I read, sir, of the rise and fall of great empires, whose career makes up the history of antiquity—Assyria, and of Persia, and of Greece, and of Rome, who successively swayed the destinies of the world, and are now dwarfed or perished among the ruins of earlier times. But the fall of this

Government—this Union, would mark a still more disastrous and doleful period in the annals of the world; it would mark not merely the reflux of despotic power upon its devoted authors and agents, not merely the retribution of the sword upon the conqueror and destroyer of the human race; but, alas, it would trace in letters of blood and despair a still more appalling epitaph—the relapse of liberty and civilization into the night of ignorance and barbarism—the collapse of nature herself in the aspiring struggle to elevate and ennoble mankind. The mighty convulsion of the moral, social, and political condition of the world, which would result from such a catastrophe, can only be solved in its consequences by the Deity himself; and may he ever avert it! To the feeble powers allotted me a far more limited view is allowed; and only to the extent those powers authorize is it proper for me, or would I attempt to speculate on the future.

Within this limited range it appears to me that the first and most obvious consequence of non-action must be the destruction of the existing political parties, and the erection of geographical parties on their ruins—arraying one section of the Union against the other in angry and irreconcilable strife and hatred. This would be the first step towards disunion: indeed, it would be in itself a moral disruption of the Union, ultimately to be followed by armed efforts to widen the breach into a permanent political and physical one.

The next consequence would probably be the abandonment of our territories acquired from Mexico, which would be almost certainly followed by a collision between Texas and New Mexico. And in the event of such a collision, what part could we take? Should we side with Texas, and employ the army of the United States to suppress what we considered insurrection in a State, in obedience to the Constitution; or should we side with New Mexico in the defence of the rights of person and property in that territory, in obedience both to the Constitution and our treaty with Mexico? Which alternative could we consistently adopt? And if neither, and we should forbear interference, would not Mexico be tempted to become a party to the contest, and thus recover a portion of her lost territory? Let these questions be answered by those who object to action—who object to a reasonable pacification.

Again, sir: in the event of the loss of the territories in question, a still more important result would follow. California would immediately declare her independence, and eventually uniting with Oregon, would form the more extended Republic of the Pacific. This event would be fol-

lowed, if not preceded, by the absorption of Lower California; which, by provoking a war with Mexico, would probably terminate, sooner or later, in the conquest and addition of that Republic to her young and aspiring neighbor. With these, or with a part of these extended dominions, our disowned and neglected offspring, having in their possession the Pacific coast for more than two thousand miles, the mouth of the Columbia river, the great bay of San Francisco, the unsurpassed *placers* of the Sacramento and San Joaquin valleys, extensive forests of the best ship timber; having also the control of the valuable whale fisheries of the North Pacific, and the great keys and estuaries of the direct overland trade between Europe and Asia, and of the immense maritime commerce of the four hundred millions of people living around the shores of the Pacific, and upon its inviting and clustering islands,—I say, sir, with all these vast advantages, our disowned and rejected offspring might, and would, become our rival; replacing our destiny, and rolling on the mighty tide beyond us, and perchance over our ruins, which had passed from our control, and which has been circling the earth for more than three thousand years under the omnipotent fiat of Jehovah.

And last, sir, the same causes which had lost to us our territories, might also dissever the Union itself. How sever it, I will not undertake to predict; only to question the shallow oracles which we have heard so flippantly retailed by the political soothsayers of the day. That this Union will be peaceably overthrown, is one of the wildest and most frantic dreams that ever was indulged by a heated and distempered brain. No! God himself has decreed otherwise. He has joined us together by a common language, a common religion, a common history, and a common country; and the explosive force of civil war—tremendous civil war, alone, can put us assunder. No, sir, no; not until the mighty rivers and the inland seas, which now bind us together as one people—the most prosperous and happy on earth—are choked with carnage and discolored with blood, will the demon of disunion flap his baleful wings and croak his discordant notes of fiendish joy over the ruins of this glorious Republic.

And, sir, if such a catastrophe should befall us, what would the future probably develop? Would there be a slaveholding and a non-slaveholding, a southern and northern Confederacy, as has been

supposed? Would this be the division? I think not, sir. This continent—North America—displays very different geographical features from those of Europe and Asia. We have here no great central mountains, like the Alps and the Himalays emerging from their declivities the rivers, which with their distinctive mountains, segregate both continents, and delineate correspondingly the political divisions of each. We have no such formation here. On the contrary, our continent, as a bowl, gathers to the centre what falls within its rim—the Alleghanies on the east, and the Rocky Mountains on the west: within which, and between them and the Atlantic ocean on one side and the Pacific ocean on the other, are comprehended its great geographical divisions, to which its political divisions would naturally conform under a new order of things. Yes, there would be an Atlantic and a Pacific Republic, also an intervening Republic, the largest of the three, holding the Mississippi river and the Gulf of Mexico, and insisting upon free egress and ingress by the lake and the St. Lawrence river, to and from the ocean. This would probably be the development of the future; but how long even this order of things would stand, no one can foretell; for here as elsewhere, and in other times, power—unbridled power, might overleap the barriers of Nature, and merge a continent in the unfathomable depths of Despotism. This would be the work of another Alexander Cæsar, or Napoleon, rushing forth to set the new world on fire, and to snatch from the dissolving pile the flaming brand of conquest and universal dominion.

But, sir, I will not pursue these speculations—God grant that they may never be realized. I have only pursued them so far, in answer to the fatal delusion, the insensate idea of peaceable disunion. I turn from the horror of the picture which disunion would conjure up; I turn from it with alacrity and delight, to the brighter and more remote prospect of union—this glorious and happy Union as it is, administered in the spirit of the Constitution, and to be guarded and perpetuated forever as a priceless legacy to our posterity and as a beacon of Hope to mankind throughout the world.

In the poetic language of our countryman, Longfellow, let us all unite in the common anthem:

“Sail on, oh Union, strong and great!
 * * * * *
 Sail on, nor fear to breast the sea!
 * * * * *
 Our hearts, our hopes, our prayers, our tears
 Are all with thee—are all with thee!”



